

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cr-41-FDW**

UNITED STATES OF AMERICA,)	
)	
)	
vs.)	<u>ORDER</u>
)	
ERIC BRICE,)	
)	
Defendant.)	
)	
_____)	

THIS MATTER comes before the Court on Defendant's Pro Se Motion for Inquiry of Counsel. (Doc. No. 29). The motion appears to be in the nature of a petition, under 28 U.S.C. § 2255, in which Defendant contends that his previous trial counsel failed to file a notice of appeal on his behalf after Defendant requested counsel to do so. Defendant also seeks appointment of new counsel so that new counsel can file a notice of appeal on Defendant's behalf.

Before this Court construes this action as one arising under § 2255, Defendant is first entitled to the notice and opportunity, pursuant to United States v. Castro, 540 U.S. 375 (2003), to state whether he intended to bring the action as one arising under § 2255. Defendant shall, therefore, have 20 days in which to inform the Court whether he would like to have this Court construe his motion as a Section 2255 petition, as well as a motion for appointment of new counsel who will file a notice of appeal on Defendant's behalf.

IT IS, THEREFORE, ORDERED that:

1. Defendant shall, within 20 days of service of this Order, inform the Court as to whether he would like for the Court to construe his motion as a petition arising under Section 2255, as well as a motion for appointment of new counsel who will

file a notice of appeal on Defendant's behalf.

Signed: July 15, 2015

A handwritten signature in cursive script, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

